THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35928 of 1997

Dated:05.04.2007

Between
B.Deva Singh

.....Petitioner

and

1.The Vice Chairman and
Managing Director,Girijan
Cooperative Corporation
Ltd.,Visakhapatnam and
Others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35928 of 1997

ORDER:

This writ petition is filed seeking a Certiorari to call for the records relating to the order passed by the 2nd respondent in Rc.No.10 of 1995-G1 dated 06.06.1995 terminating the services of the petitioner as confirmed by the 1st respondent *vide* proceedings dated 2.12.1997 and to quash the same as arbitrary and illegal and consequently to direct the respondents to regularize the services of the petitioner in the category of Tray Dryer Operator duly putting him on the time scale.

It appears that the petitioner was appointed as Tray Dryer Operator in the respondent-Corporation with effect from

27.9.1992 on a consolidated stipend of Rs.1,000 per month, initially for a period of six months and thereafter he was continued till the date of termination of his services on 6th June, 2005.

It is the contention of the petitioner that he has been subjected to selection process before he was appointed and he is also entitled for regularization of his services as per G.O.Ms.212 dated 22.4.1994 and therefore, terminating his services under the impugned proceedings dated 6th June,1995 is arbitrary and illegal. Aggrieved by the said impugned order, the petitioner carried the matter in appeal before the 1st respondent, but however, the same was dismissed. Therefore, this writ petition is filed.

In fact, the petitioner has directly approached this Court challenging the termination order dated 6th June 1995 by filing a Writ Petition, which was disposed of directing the petitioner to file statutory appeal before the

appellate authority, and the respondents not to disturb the services of the petitioner during pendency of the appeal. Thereafter, the appeal was disposed of.

It is not the case of the respondents that the petitioner was appointed by any back door method. It is their case that he was appointed on a stipend of R.1000/- initially for a period of 6 months and thereafter he was continued till the date of his termination. While terminating the services of the petitioner, he was given one month's notice pay and also the compensatory amount i.e., 15 days average wage for each completed year of service from 5.10.1992 to 6.6.1995. Therefore, it cannot be said that the termination order passed by the respondent-Corporation is either arbitrary or illegal. The Appellate Authority has also considered the same under proper perspective and confirmed the termination order.

Apart from this, in view of the Act 2 of 1994, i.e., AP (Regulation of appointments to Public

Service and Rationalization of staff pattern and pay structure), the services of the petitioners were sought to be terminated duly following the procedure as required under the law and as on 6th June, 1995 i.e., the date of his termination from service, he had not satisfied the criteria laid down in G.O.Ms.No.212, dated 22.4.1994. He has not completed 5 years of service either on 25.11.1993 or on the date of passing of the impugned order. Therefore, there was no other alternative except to terminate the services of the petitioner as required under the Act 2 of 1994. Further, there is no cadre post such as Tray Dryer Operator in the respondent-Corporation

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

At the out set, it is seen that the services of the petitioner was sought to be terminated in

view of the provisions of AP (Regulation of appointments to Public Service and Rationalization of staff pattern and pay structure), Act 2 of 1994. Even at that stage, it appears that the respondents have considered as to whether the case of the petitioner could be considered under G.O.Ms.No. 212 dated 22.4.1994. But, it was found that the petitioner had not completed 5 years of service either on 25.11.1993 or on the date of passing of the impugned proceedings. Therefore, there was no option to the respondents except to terminate the services of the petitioner, particularly, in view of the fact that the post of Tray Dryer Operator was not born on the cadre strength of the respondent-Corporation. However, now it is more than 16 years that the petitioner is continuing in service pursuant to the interim orders passed by this Court.

Under those circumstances, it is suffice to direct the respondents to consider the case of the petitioner for absorption in any suitable

post, if there are vacancies and if he is otherwise eligible, as per law, and pass appropriate orders, within a period of eight weeks, from the date of receipt of a copy of this order. Till such time, the services of the petitioner shall not be disturbed.

With the above direction, the writ petition is disposed of. No costs.

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05-04-2007

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